

Adenuga, Jonathan

From: Jennifer DiJoseph [jdijoseph@advancedgeoservices.com]
Sent: Thursday, June 20, 2013 9:44 AM
To: Adenuga, Jonathan
Cc: Paul Stratman; LOVE, Matt (Reading Equipment Center)
Subject: RMC Beech Grove - Construction Permit Status

Jonathan,

Below is a summary of the status of construction permits necessary for the RMC Beech Grove Corrective Measures Implementation:

NP 38: The NP 38 permit was issued by Army Corps on May 9, 2013. A copy was provided to you previously.

401 Water Quality Certification: The application was submitted to IDEM and no comments have been received. The public comment period ends approximately June 21, and IDEM expects to issue the permit approximately July 1. IDEM has indicated that we can begin upland (i.e., non-wetland) work in advance of permit approval.

Drainage Permit: An owner-requested revision of the Drainage Permit was submitted to the City of Indianapolis on June 13, 2013. The submission reflects the changes to the containment cell and stormwater management system. Review typically takes 10 days, and we expect to receive approval or comments at that point.

Notice of Intent: A Notice of Intent related to earth disturbance will be submitted to IDEM once the City of Indianapolis approval of the Drainage Permit is received.

ule 5 Documents: The Drainage Permit, NOI, and Erosion and Sediment Control Plan will be submitted to the Marion County Conservation District after submission of the NOI.

Please let us know if you have any questions.

Thanks
Jen

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Adenuga, Jonathan

From: Jennifer DiJoseph [jdijoseph@advancedgeoservices.com]
Sent: Wednesday, October 30, 2013 9:38 AM
To: Adenuga, Jonathan
Cc: matt.love@exide.com; Paul Stratman; Jan Dobinsky
Subject: Beech Grove - Construction permit status
Attachments: IDEM Water Quality Certification.pdf; IDEM Isolated Wetland Permit Approval.pdf; Refined Metals Drainage approval.pdf; IDEM Notice of Sufficiency (8.22.13).pdf; Rule 5 Paperwork Cover Letter.pdf

Jonathan,

As requested, below is an update on the construction permits necessary for the RMC Beech Grove Corrective Measures Implementation:

NP 38: The NP 38 permit was issued by Army Corps on May 9, 2013. A copy was provided to you previously.

401 Water Quality Certification: The 401 Water Quality certification was provided by IDEM on 6/25/13. IDEM also provided an approval of our Isolated Wetland application on 6/25/13. Please see attached.

Drainage Permit: City of Indianapolis approval of our Drainage application was received 7/29/13. Please see attached. We are working through the items needed for permit issuance.

Notice of Intent: Following receipt of the Drainage application, a Notice of Intent was submitted to IDEM. A Notice of Sufficiency was received on 8/22/13. Please see attached.

Rule 5 Documents: Following submission of the NOI, Rule 5 documents were submitted to Marion County Conservation District. The cover letter for the submittal is attached. A response is not needed from Marion County to proceed.

Please let me know if you have any questions.

Thanks
Jen

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DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
INDIANAPOLIS REGULATORY OFFICE
8902 OTIS AVENUE, SUITE S106B
INDIANAPOLIS, INDIANA 46216-1055
FAX: 317-547-4526

May 9, 2013

Operations Division
Regulatory Branch (North)
ID No. LRL-2012-107-1c1

Mr. Matthew Love
Refined Metals Corporation
c/o Exide Technologies
Post Office Box 14294
Reading, PA 19612

Dear Mr. Love:

This is in regard to your application dated March 19, 2013, for a Department of the Army permit to authorize the proposed remediation at the Refined Metals former secondary lead smelting facility. The remediation is being performed as a consent order requirement under the Resource Conservation and Recovery Act by the U.S. Environmental Protection Agency and the Indiana Department of Environmental Management. The project would permanently fill 0.07 acre of wetlands, and temporarily impact 0.19 acre of wetlands, adjacent to an unnamed tributary to Beech Creek. The project is located at 3700 South Arlington Avenue, in Section 27, Township 15 North, Range 4 East, Beech Grove, Marion County, Indiana. We have reviewed the submitted data relative to Section 404 of the Clean Water Act.

We have determined that the proposed project is authorized under the provisions of our Nationwide Permit (NWP) 33 CFR 330 (38) for Cleanup of Hazardous and Toxic Waste as published in the Federal Register on February 21, 2012. We do require compliance with the enclosed Terms, General, and Regional Conditions of the NWP.

However, since the IDEM has denied the required Section 401 CWA Water Quality Certification (WQC) for NWP 38, you must apply for and obtain an individual WQC for this project from the IDEM. The responsibility for obtaining the state WQC rests with the applicant. You may contact IDEM as follows:

IDEM-OWQ (Groce)
Section 401 WQC Program
100 North Senate Avenue
Indianapolis, IN 46204
Telephone: 317-234-6233

Once you obtain your WQC from IDEM and furnish a copy to us, you are authorized under this NWP and may proceed without further contact or verification from us. If IDEM issues an individual WQC, you must comply with any conditions imposed in the WQC as it is part of your NWP authorization.

This verification is valid until March 18, 2017. The enclosed Compliance Certification should be signed and returned when the project is completed.

If you have any questions concerning this matter, please contact me by writing to the above address, or by calling 317-543-9424. Any correspondence should reference our assigned Identification Number LRL-2012-107-lcl.

Sincerely,

A handwritten signature in black ink, appearing to read "Laban C. Lindley", with a stylized flourish at the end.

Laban C. Lindley
Team Leader
Indianapolis Regulatory Office

Enclosures

Copy Furnished: IDEM (Groce)
Advanced GeoServices (Stratman)

Compliance Certification

Permit Number: LRL-2012-107-1c1

Name of Permittee: Refined Metals Corporation
c/o Exide Technologies

Agent: Advanced GeoServices

Date of Issuance: May 9, 2013

Upon completion of the activity authorized by this permit and any mitigation required by this permit, sign this certification and return it to the following address:

USACE - Louisville District
Indianapolis Regulatory Office
8902 Otis Avenue, Suite S106B
Indianapolis, IN 46216-1055

Please note that your permitted activity is subject to a compliance inspection by an U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit conditions.

Signature for Permittee
(Matt Love)

Date

Terms for Nationwide Permit No. 38
Cleanup of Hazardous and Toxic Waste

Specific activities required to effect the containment, stabilization, or removal of hazardous or toxic waste materials that are performed, ordered, or sponsored by a government agency with established legal or regulatory authority. Court ordered remedial action plans or related settlements are also authorized by this NWP. This NWP does not authorize the establishment of new disposal sites or the expansion of existing sites used for the disposal of hazardous or toxic waste.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 31.) (Sections 10 and 404)

Note: Activities undertaken entirely on a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) site by authority of CERCLA as approved or required by EPA, are not required to obtain permits under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act.



**US Army Corps
of Engineers**
Louisville District

Nationwide Permit Conditions

The following General Conditions must be followed in order for any authorization by NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.
(b) Any safety lights and signals prescribed by the US Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the US.
(c) The permittee understands and agrees that, if future operations by the US require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the US. No claim shall be made against the US on account of any such removal or alteration.
2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species.
3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. Migratory Bird Breeding Areas. Activities in waters of the US that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.
6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high

- tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the US during periods of low-flow or no-flow.
13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
 14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.
 15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.
 16. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, US Forest Service, US Fish and Wildlife Service).
 17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
 18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address ESA compliance for the NWP activity, or whether additional ESA consultation is necessary.
(c) Non-federal permittees must submit a pre-construction notification (PCN) to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the PCN must include the name(s) of the endangered or threatened species that might be affected by the proposed work or that utilize the designated critical habitat that might be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete PCN. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from Corps.
 - (d) As a result of formal or informal consultation with the USFWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs.

(e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, The Endangered Species Act prohibits any person subject to the jurisdiction of the US to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS at <http://www.fws.gov> or <http://www.fws.gov/ipac> and <http://www.nmfs.gov/fisheries.html>, respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for obtaining any "take" permits required under the USFWS's regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee should contact the appropriate local office of the USFWS to determine if such "take" permits are required for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will review the documentation and determine whether it is sufficient to address section 106 compliance for the NWP activity, or whether additional section 106 consultation is necessary.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of Section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties on which the activity may have the potential to cause effects and notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA is complete.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR §800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110(k) of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who,

with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal and state coordination required to determine if the items or remains warrant recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include: NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the US are not authorized by NWPs 7, 12, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 31, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the US to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse effects of the proposed activity are minimal, and provides a project-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in minimal adverse effects on the aquatic environment.

(2) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(3) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) - (14) must be approved by the district engineer before the permittee begins work in waters of the US, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(4) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(5) Compensatory mitigation requirements (e.g., resource type and amount) to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream rehabilitation, enhancement, or preservation, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any project resulting in the loss of greater than 1/2-acre of waters of the US, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the restoration or establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to establish a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or establishing a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee programs, or separate permittee-responsible mitigation. For activities resulting in the loss of marine or estuarine resources, permittee-responsible compensatory mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(h) Where certain functions and services of waters of the US are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has

been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality, Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or USEPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the US authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the US for the total project cannot exceed 1/2-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature: "When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized work was done in accordance with the NWP

authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(i)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the work and mitigation.

31. Pre-Construction Notification (PCN). (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a PCN as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

- (1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
 - (2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 20 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).
- (b) Contents of Pre-Construction Notification. The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project, the project's purpose; direct and indirect adverse environmental effects the project would cause, including the anticipated amount of loss of water of the US expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- (4) The PCN must include a delineation of wetlands, other special aquatic sites, and waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the US. The 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse effects are minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

(7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) Form of PCN Notification. The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) Agency Coordination. (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.

(2) For all NWP activities that require PCN notification and result in the loss of greater than 1/2-acre of waters of the US, for NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require PCN notification and will result in the loss of greater than 300 linear feet of intermittent and ephemeral stream bed, and for all NWP 48 activities that require PCN notification, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (USFWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the PCN notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects to the aquatic environment of the proposed activity are minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each PCN notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of PCN notifications to expedite agency coordination.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project.

INDIANA REGIONAL GENERAL CONDITIONS FOR THE STATE OF INDIANA

These regional conditions are in addition to but do not supersede the requirements in the Federal Register (Volume 77 No. 34 of February 21, 2012). Information on Pre-Construction Notification (PCN) can be found at NWP General Condition No. 31 (Federal Register, Volume 77, No. 34, Tuesday, February 21, 2012, pp 10286).

The following Nationwide Permits in the State of Indiana have been suspended:

NWP 7 Outfall Structures and Associated Intake Structures
NWP 11 Temporary Recreational Structures
NWP 13 Bank Stabilization
NWP 14 Linear Transportation Projects
NWP 15 U.S. Coast Guard Approved Bridges
NWP 18 Minor Discharges
NWP 19 Minor Dredging
NWP 25 Structural Discharges
NWP 29 Residential Developments
NWP 36 Boat Ramps
NWP 39 Commercial and Institutional Developments
NWP 40 Agricultural Activities
NWP 41 Reshaping Existing Drainage Ditches
NWP 42 Recreational Facilities
NWP 43 Stormwater Management Facilities
NWP 44 Mining Activities

REGIONAL CONDITIONS:

1. Nationwide Permit No. 12 – Utility Line Activities
 - (a) Notification is required for all substations.
 - (b) Impacted wetlands outside of permanently maintained rights of way shall be restored to the same or more valuable wetland type (e.g. forested wetlands shall be restored to forested wetlands). Within permanently maintained rights of way, impacted wetlands shall be restored, unless otherwise authorized by the Corps.
 - (c) For utility lines placed across the channel of an authorized Federal navigation project, the following conditions apply: 1) the line must be embedded at least 6 feet below the authorized Federal channel depth; 2) existing and proposed elevation information on precise plan and section scale drawings are required; 3) within 60 days after construction, an as-built survey must be provided indicating the points of entry and exit of the installation.
 - (d) Notification is required for all stream crossings.

Regional Conditions Applicable to all NWP's within Indiana:

1. Excavation/dredging from areas of known or suspected contamination requires:
 - (a) Placement of the material in a Confined Disposal Facility or Class II landfill; or
 - (b) Placement of the material by other Corps' approved method; or
 - (c) Testing to demonstrate that the material is not contaminated. If the material is determined to be contaminated, it must be disposed of in a. or b. above.
2. Notification in accordance with Condition 31 is required to the Corps for all activities affecting Designated Salmonid Waters, Outstanding State Resource Waters, Exceptional Use Streams, and Critical Wetlands and Critical Special Aquatic Sites (See Attachments 1 and 2).
3. Notification in accordance with Condition 31 is required to the Corps for all activities which would cause, alter, or affect diversion of water from the Great Lakes basin.

ATTACHMENT 1

Designated Salmonid Waters

1. Galena River and its tributaries, LaPorte County
2. Trail Creek & tributaries downstream to Lake Michigan, LaPorte County.
3. East Branch of the Little Calumet River and its tributaries downstream to Lake Michigan via Burns Waterway (Ditch), Porter and LaPorte Counties.
4. The Indiana portion of the open waters of Lake Michigan.
5. Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan, Porter County.
6. Salt Creek and its tributaries upstream of its confluence with the Little Calumet River, Porter County.
7. The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan state line, St. Joseph County.
8. Those waters designated by the Indiana Department of Natural Resources (IDNR) for put-and-take trout fishing.

Waterbodies which have been designated all or partially as Outstanding State Resource Waters:

1. The Blue River in Washington, Crawford, and Harrison counties (from the confluence of the West and Middle Forks of the Blue River in Washington County) from river mile 57.0 to river mile 11.5.
2. Cedar Creek in Allen and DeKalb counties.
3. The North Fork of Wildcat Creek in Carroll and Tippecanoe counties.
4. The South Fork of Wildcat Creek in Tippecanoe County.
5. The Indiana portion of Lake Michigan.
6. All waters incorporated in the Indiana Dunes National Lakeshore.

Streams which have been designated all or partially as Exceptional Use Waters:

1. Big Pine Creek in Warren County.
2. Mud Pine Creek in Warren County.
3. Fall Creek in Montgomery County.
4. Indian Creek in Montgomery County.
5. Clifty Creek in Montgomery County.
6. Bear Creek in Fountain County.
7. Rattlesnake Creek in Fountain County.
8. The small tributary to Bear Creek in Fountain County within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch.
9. Blue River from the confluence of the West Middle Forks of the Blue River in Washington County to the Ohio River.
10. The South Fork of the Blue River in Washington County.
11. Lost River and all surface and underground tributaries upstream from the Orangeville Rise.
12. Rise of the Lost River
13. Mainstream of the Lost River from Orangeville Rise downstream to its confluence with the East Fork of the White River (Orangeville Rise location)

ATTACHMENT 2

Critical Wetlands and Critical Special Aquatic Sites

1. Acid bogs
2. Acid seeps
3. Circumneutral bogs
4. Circumneutral seeps
5. Cypress Swamps
6. Dune and swales
7. Fens
8. Forested fens
9. Forested swamps
10. Marl beaches
11. Muck flats
12. Pannes
13. Sand flats
14. Sedge meadows
15. Shrub swamps
16. Sinkhole ponds
17. Sinkhole swamps
18. Wet floodplain forests
19. Wet prairies
20. Wet sand prairies



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

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Michael R. Pence
Governor

Thomas W. Easterly
Commissioner

June 25, 2013

VIA CERTIFIED MAIL 91 7190 0005 2710 0028 1302

Mr. Matthew Love
Refined Metals Corporation
P.O. Box 14294
Reading, PA 19612

Dear Mr. Love:

Re: Section 401 Water Quality Certification
Project: Refined Metals Corporation
IDEM No.: 2013-180-49-SKG-A
COE No.: LRL-2012-107-lcl
County: Marion

The Office of Water Quality has reviewed your application for Section 401 Water Quality Certification dated March 21, 2013, and received March 26, 2013. According to the application, you propose to impact approximately 1,750 linear feet of jurisdictional ditches and discharge fill into 0.01 acre of Wetland 2 (0.16 ac) and into 0.06 acre of Wetland 3 (0.33 acre). The jurisdictional ditches will be returned to existing grade and planted with a native swale seed mix. Impacts to non-exempt Class II isolated wetlands will be permitted under a separate Isolated Wetland Individual Permit (IWIP 2013-180-49-SKG-A). The purpose of the work is to remove contaminated sediment. The project is located in the Section 27, Township 15 North, Range 4 East in Beech Grove, Marion County.

Based on available information, it is the judgment of this office that the proposed project will comply with the applicable provisions of 327 IAC 2 and Sections 301, 302, 303, 306, and 307 of the Clean Water Act if you comply with the conditions set forth below. Therefore, subject to the following conditions, the Indiana Department of Environmental Management (IDEM) hereby grants Section 401 Water Quality Certification for the project described in your application received March 26, 2013. Any changes in project design or scope not detailed in the application described above or modified by the conditions below are not authorized by this certification.

CONDITIONS OF THE SECTION 401 WATER QUALITY CERTIFICATION:

You shall:

- 1) Deposit any dredged material in a contained upland disposal area to prevent sediment runoff to any waterbody.



A State that Works

- 2) Install erosion control methods prior to any soil disturbance to prevent soil from leaving the construction site. Appropriate erosion control methods include, but are not limited to, straw bale barriers, silt fencing, erosion control blankets, phased construction sequencing, and earthen berms. Monitor and maintain erosion control structures and devices regularly, especially after rain events, until all soils disturbed by construction activities have been permanently stabilized.
- 3) Install silt fence or other erosion control measures around the perimeter of any wetlands and/or other waterbodies to remain undisturbed at the project site.
- 4) Allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials:
 - a) to enter your property, including impact and mitigation site(s);
 - b) to have access to and copy at reasonable times any records that must be kept under the conditions of this certification;
 - c) to inspect, at reasonable times, any monitoring or operational equipment or method; collection, treatment, pollution management or discharge facility or device; practices required by this certification; and any mitigation wetland site;
 - d) to sample or monitor any discharge of pollutants or any mitigation site.
- 5) Complete all approved discharges no later than two (2) years of the date of issuance of this Section 401 Water Quality Certification. You may request a one (1) year extension to the Section 401 Water Quality Certification by submitting a written request ninety (90) days prior to the deadline stated above. The written request shall contain an account of which discharges and mitigation have been completed and list the reasons an extension is requested.
- 6) Remove any temporary causeway or other approved temporary structures used to facilitate construction or access upon completion of construction activities.
- 7) Ensure all disturbed areas are seeded and stabilized upon completion of the project.
- 8) Avoid tree clearing from April 1 through September 30.
- 9) Avoid tree removal other than within the areas depicted on the plans.
- 10) Ensure the channel is stabilized before releasing stream flows into the channel.

This certification does not relieve you of the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160 (toll free at 877-928-3755) concerning the possible requirement of natural freshwater lake or floodway permits. In addition, you

may wish to contact IDEM's Storm Water Permits Section at 317-233-1864 concerning the possible need for a 327 IAC 15-5 (Rule 5) permit if you plan to disturb greater than one (1) acre of soil during construction.

This certification does not:

- (1) authorize impacts or activities outside the scope of this certification;
- (2) authorize any injury to persons or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
- (3) convey any property rights of any sort, or any exclusive privileges;
- (4) preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities; or
- (5) authorize changes in the plan design detailed in the application.

Failure to comply with the terms and conditions of this Section 401 Water Quality Certification may result in enforcement action against you. If an enforcement action is pursued, you could be assessed up to \$25,000 per day in civil penalties. You may also be subject to criminal liability if it is determined that the Section 401 Water Quality Certification was violated willfully or negligently.

This certification is effective eighteen (18) days from the mailing of this notice unless a petition for review and a petition for stay of effectiveness are filed within this 18-day period. If a petition for review and a petition for stay of effectiveness are filed within this period, any part of the certification within the scope of the petition for stay is stayed for fifteen (15) days, unless or until an Environmental Law Judge further stays the certification in whole or in part.

This decision may be appealed in accordance with IC 4-21.5, the Administrative Orders and Procedures Act. The steps that must be followed to qualify for review are:

- 1) You must petition for review in writing that states facts demonstrating that you are either the person to whom this decision is directed, a person who is aggrieved or adversely affected by the decision, or a person entitled to review under any law.
- 2) You must file the petition for review with the Office of Environmental Adjudication (OEA) at the following address:

Office of Environmental Adjudication
100 North Senate Avenue
IGCN Room N501
Indianapolis, IN 46204

- 3) You must file the petition within eighteen (18) days of the mailing date of this decision. If the eighteenth day falls on a Saturday, Sunday, legal holiday, or other day that the OEA offices are closed during regular business hours, you may file the petition the next day that the OEA offices are open during regular business hours. The petition is deemed filed on the earliest of the following dates: the date it is personally delivered to OEA; the date that the envelope containing the petition is postmarked if it is mailed by United States mail; or, the date it is shown to have been deposited with a private carrier on the private carrier's receipt, if sent by private carrier.

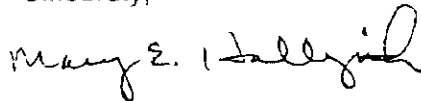
Identifying the certification, decision, or other order for which you seek review by number, name of the applicant, location, or date of this notice will expedite review of the petition.

Note that if a petition for review is granted pursuant to IC 4-21.5-3-7, the petitioner will, and any other person may, obtain notice of any prehearing conferences, preliminary hearings, hearings, stays, and any orders disposing of the proceedings by requesting copies of such notices from OEA.

If you have procedural questions regarding filing a petition for review you may contact the Office of Environmental Adjudication at 317-232-8591.

If you have any questions about this certification, please contact Mrs. Samantha Groce, Project Manager, of my staff at 317-234-6233, or you may contact the Office of Water Quality through the IDEM Environmental Helpline (1-800-451-6027).

Sincerely,



Mary E. Hollingsworth, Branch Chief
Surface Water, Operations & Enforcement Branch
Office of Water Quality

cc: Laban Lindley, USACE- Indianapolis Field Office
Scott Pruitt, USFWS
Christie Stanifer, IDNR
Paul Stratman, Advanced GeoServices



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Michael R. Pence
Governor

Thomas W. Easterly
Commissioner

ISOLATED WETLAND INDIVIDUAL PERMIT

VIA CERTIFIED MAIL: 91 7190 0005 2710 0028 1326

PERMIT NO.: IWIP 2013-180-49-SKG-A

PROJECT NAME: Refined Metals Corrective Measures

AUTHORITY: IC 13-18-22-3

DATE OF ISSUANCE: June 25, 2013

DATE OF EXPIRATION: June 25, 2015

APPROVED:

Mary E. Hollingsworth, Branch Chief
Surface Water, Operations & Enforcement Branch
Office of Water Quality

APPLICANT AND PERMITTEE: Matthew Love
Refined Metals Corporation
P.O. Box 14294
Reading, PA 19612

AGENT:

Paul Stratman
Advanced GeoServices
1055 Andrew Drive Suite A
West Chester, PA 19380

PROJECT LOCATION: Marion County

Section 27, Township 15 North, Range 4 East, Beech
Grove USGS Quad

The project is located at 3700 South Arlington Avenue
in Beech Grove.



Refined Metals Corrective Measures

Page 2

ISOLATED WETLANDS

ON PROPERTY:

Wetland 1 Class II 0.20 acre Forested

Total acreage: 0.20 acre

ISOLATED WETLANDS

EXEMPT:

None

REGULATED ISOLATED

WETLAND IMPACTS:

Wetland 1 Class II 0.11 acre Forested

Total regulated impact: 0.11 acre

PERMITTED ACTIVITY:

The excavation of 0.11 acre of Wetland 1 (Class II) to create an area for storm water management purposes. Impacts to jurisdictional wetlands will be permitted under a separate 401 Individual Permit (2013-180-49-SKG-A)

MITIGATION:

Creation of 0.17 acre of a Class II wetland at the project site.

MITIGATION LOCATION:

Marion County

Section 27, Township 15 North, Range 4 East, Beech Grove USGS Quad

The mitigation is located at 3700 South Arlington Avenue in Beech Grove.

MITIGATION RATIOS:

Class of Wetland Impacts: II

Type of Wetland Impacts: Forested

Class of Wetland Replacement: II

Type of Wetland Replacement: Forested

Onsite Mitigation

Required Ratio: 1.5:1

Total Class II Mitigation: 0.17 acre

GENERAL CONDITIONS OF THE INDIVIDUAL PERMIT:

You shall:

1. Install erosion control methods prior to any soil disturbance to prevent soil from leaving the construction site. Appropriate erosion control methods include, but are not limited to, straw bale barriers, silt fencing, erosion control blankets, phased construction sequencing, and earthen berms. Monitor and maintain erosion control structures and devices regularly, especially after rain events, until all soils disturbed by construction activities have been permanently stabilized.
2. Install silt fence or other erosion control measures around the perimeter of any wetlands and/or other waterbodies to remain undisturbed at the project site.
3. Execute the project as proposed in the application dated March 21, 2013, and received March 26, 2013.
4. Implement the mitigation plan as described in (a) the application received March 26, 2013, (referred to collectively hereinafter as the "mitigation plan"), and as modified by the conditions of this permit. The wetland(s) created or restored pursuant to the mitigation plan shall be referred to hereinafter as the "mitigation wetland" or "mitigation wetlands."
5. Complete all activities necessary to create the mitigation wetland within one (1) year of the effective date of this permit, unless IDEM grants a written extension upon request. These activities include excavation, grading, installation of hydrologic controls, and planting.
6. Clearly identify on-site all mitigation wetlands after construction of the mitigation wetlands. Install survey markers to identify the boundaries of the wetlands. If the mitigation wetlands being created are adjacent to or near existing wetlands, then the survey markers must distinguish the created wetland from the existing wetland.
7. Monitor the mitigation wetland annually for a minimum period of three (3) continuous years to determine if it is meeting the success criteria specified in **Condition 9**. If the site does not meet the specified success criteria for two consecutive years in this three year period, then you will monitor the site for an additional two years for a total of five years. The monitoring must start no later than one full growing season after construction, and monitoring reports must be submitted to this office by December 31 of each year until released from monitoring by this office. These reports shall contain information concerning what steps you have taken to create the mitigation wetland and

whether the wetland is achieving each of the success criteria specified in **Condition 9**. The reports shall include the following:

- a) The IDEM identification number.
- b) As-built plans (in the first year's report).
- c) Discussion of hydrology at the mitigation site.
- d) Discussion of plant community development at the mitigation wetland site.
- e) Discussion of methods or means used to determine compliance with the success criteria.
- f) Photographs representative of the mitigation wetland site and sampling points.
- g) Identification of any problems with meeting the success criteria.
- h) Recommendations for correcting any problems identified.
- i) Wetland delineation for the mitigation wetland in the final monitoring report.

For IDEM to release the mitigation site you must demonstrate to IDEM, through your monitoring reports, that the site meets or exceeds the success criteria for at least two (2) consecutive years. Once you believe that the site meets or exceeds all of the success criteria, you may submit a proposed final monitoring report to IDEM and suspend monitoring. If IDEM confirms that the mitigation site meets or exceeds all of the success criteria, then IDEM shall notify you that the mitigation is complete and that you may permanently discontinue monitoring. If the site fails to meet the success criteria then corrective actions and extended monitoring will be required. Extended monitoring may constitute the sole corrective action if IDEM believes that the site needs more time to meet the success criteria. These corrective actions may also include additional grading, planting, relocation, or other actions deemed necessary by IDEM to meet the success criteria.

8. Include a delineation of all mitigation wetlands in the final monitoring report. The delineation must be conducted on-site using the hydrology and vegetation parameters from the United States Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1 (January 1987). The delineation report must include data sheets and a survey, map or drawing with area measurements (in acres) of all mitigation wetland boundaries.
9. Ensure that the mitigation wetland meets all of the following success criteria at the end of monitoring:
 - a) The area of wetland established, as measured by a wetland delineation, must meet or exceed the 0.17 acre of wetland compensatory mitigation required.
 - b) Greater than 50% of the dominant vegetation species must have a wetland indicator of FAC (i.e., facultative) or wetter.
 - c) The hydrology at the mitigation wetland site must meet the wetland

hydrology criteria contained in the United States Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1 (January, 1987).

- d) The combined surface areal coverage of *Phalaris arundinacea* (reed canary grass) and *Typha spp.* (cattail) shall not exceed 15% of the mitigation wetland.
 - e) The mitigation wetland is free of the following exotic species: *Lythrum salicaria* (purple loosestrife), *Phragmites australis* (common reed), and *Myriophyllum spicatum* (water milfoil).
 - f) Native plant species excluding *Typha spp.* (cattail) must have an areal cover of at least:
 - i) 70% in saturated tree, shrub, sedge meadow, or wet prairie communities.
 - ii) 50% in inundated tree or shrub, and shallow emergent communities.
 - iii) 30% in deep emergent communities. Average water depth > 8 inches.
 - iv) 10% in floating aquatic communities. Average water depth > 1.5 feet.
 - g) No more than 10% of the surface area coverage of the mitigation wetland may be open water, bare ground, or a combination of the two. Open water and bare ground are defined as areas with less than 10% areal vegetative cover.
 - h) Any additional success criteria specified in the mitigation plan or subsequent certifications.
10. Submit as-built plans with the first year's monitoring report for the mitigation wetland(s). As-built plans shall include the final grade elevations at one foot contours, including a plan view and cross sections, including cross-sections along the primary axis and secondary axis of the mitigation wetland(s). In addition, as-built plans shall include locations and elevations of structures (e.g., culvert inverts, outfalls, inlets, berms, piezometers, wells, etc.). As-built plans shall also include the species and quantities of each species that were planted. *Deviations from the approved mitigation plan must be highlighted and explained.*
11. File a signed and recorded environmental notice, which describes the compensatory mitigation contained in the mitigation plan, with the department within sixty (60) days of the release from monitoring requirements. You may substitute a copy of a properly recorded deed restriction or conservation easement protecting the mitigation site(s) to satisfy this condition.
12. Clearly mark the construction limits at the project site during construction.

13. Contact the IDEM Storm Water permits section at 317-233-1864 concerning the possible need for 327 IAC 15-5 (Rule 5) permits if you plan to disturb greater than one (1) acre of soil during construction.
14. Contact the Indiana Department of Natural Resources at 317-232-4160, or toll free at 877-928-3755, for possible Construction in a Floodway Permit requirements.
15. Complete all approved discharges no later than two (2) years of the date of issuance of this Isolated Wetland Individual Permit. You may request a one (1) year extension to the Isolated Wetland Individual Permit by submitting a written request ninety (90) days prior to the deadline stated above. The written request shall contain an account of which discharges and mitigation have been completed and list the reasons an extension is requested.
16. Allow the commissioner or an authorized representative of the commissioner (including an authorized contractor), upon the presentation of credentials:
 - a. to enter your property;
 - b. to have access to and copy at reasonable times any records that must be kept under the conditions of this permit;
 - c. to inspect, at reasonable times, any monitoring or operational equipment or method; collection, treatment, pollution management or discharge facility or device; practices required by this permit; and any mitigation wetland site;
 - d. to sample or monitor any discharge of pollutants or any mitigation wetland site.

This permit approval does not relieve you from the responsibility of obtaining any other permits or authorizations that may be required for this project or related activities from IDEM or any other agency or person. You may wish to contact the Indiana Department of Natural Resources at 317-232-4160, or toll free at 877-928-3755, concerning the possible requirement of a Natural Freshwater Lake or Construction in a Floodway Permit, or the IDEM Storm Water Permits Section at 317-233-1864 concerning the possible need for 327 IAC 15-5 (Rule 5) permits if you plan to disturb greater than one (1) acre of soil during construction.

This permit does not:

- (1) authorize impacts or activities outside the scope of this permit;
- (2) authorize any injury to persons or private property or invasion of other private rights, or any infringement of federal, state or local laws or regulations;
- (3) convey any property rights of any sort, or any exclusive privileges;
- (4) preempt any duty to obtain federal, state or local permits or authorizations required by law for the execution of the project or related activities; or

(5) authorize changes in the plan design detailed in the application.

Failure to comply with the terms and conditions of this permit may result in enforcement action against you. If an enforcement action is pursued, you could be assessed up to \$25,000 per day in civil penalties. You may also be subject to criminal liability if it is determined that the permit was violated willfully or negligently.

This permit is effective 18 days from the mailing of this notice unless a petition for review and a petition for stay of effectiveness are filed within this 18-day period. If a petition for review and a petition for stay of effectiveness are filed within this period, any part of the permit within the scope of the petition for stay is stayed for 15 days, unless or until an Environmental Law Judge further stays the permit in whole or in part.

APPEALS PROCEDURES:

This decision may be appealed in accordance with IC 4-21.5, the Administrative Orders and Procedures Act. The steps that must be followed to qualify for review are:

1. You must petition for review in writing that states facts demonstrating that you are either the person to whom this decision is directed, a person who is aggrieved or adversely affected by the decision, or a person entitled to review under any law.
2. You must file the petition for review with the Office of Environmental Adjudication (OEA) at the following address:

Office of Environmental Adjudication
100 North Senate Avenue
IGCN Room N501
Indianapolis, IN 46204

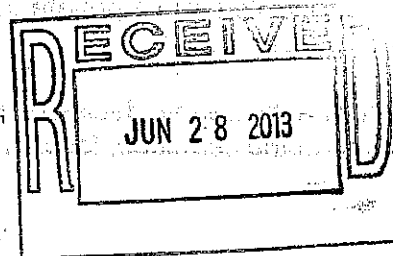
3. You must file the petition within eighteen (18) days of the mailing date of this decision. If the eighteenth day falls on a Saturday, Sunday, legal holiday, or other day that the OEA offices are closed during regular business hours, you may file the petition the next day that the OEA offices are open during regular business hours. The petition is deemed filed on the earliest of the following dates: the date it is personally delivered to OEA; the date that the envelope containing the petition is postmarked if it is mailed by United States mail; or, the date it is shown to have been deposited with a private carrier on the private carrier's receipt, if sent by private carrier.

Identifying the permit, decision, or other order for which you seek review by number, name of the permittee, location, or date of this notice will expedite review of the petition.

Note that if a petition for review is granted pursuant to IC-4-21.5-3-7, the petitioner will, and any other person may, obtain notice of any prehearing conferences, preliminary hearings, hearings, stays, and any orders disposing of the proceedings by requesting copies of such notices from OEA.

If you have procedural questions regarding filing a petition for review you may contact OEA at 317-232-8591. If you have any questions about this permit, please contact Mrs. Samantha Groce, Project Manager, of my staff at 317-234-6233, or you may contact the Office of Water Quality through the IDEM Environmental Helpline (1-800-451-6027).

cc: Scott Pruitt, USFWS
Christie Stanifer, IDNR
Mr. Paul Stratman, Advanced GeoServices



July 29, 2013



Department of Code Enforcement
Indianapolis
Gregory A. Ballard, Mayor

Mr. Paul Stratman
Advanced GeoServices
01055 Andrew Drive, Suite A
West Chester, PA 19380

NOTICE
OF
DRAINAGE APPROVAL
For Projects Greater than 1 Acre
This is Not a Permit

RE: Refined Metals
3700 South Arlington
DRN11-00784

Dear Mr. Stratman:

The City of Indianapolis Department of Code Enforcement has reviewed the proposed construction plans, drainage calculations, and application for the above referenced project. We have found that the submitted documents appear to be in substantial compliance with Chapter 561, Drainage and Sediment Control Ordinance, Code of Indianapolis and Marion County, Indiana and the Flood Control District Zoning Ordinance of Marion County, Indiana Chapter 735. We therefore, grant storm water drainage approval for this project. We have based our approval upon the accuracy of the proposed plan, specifications, and proper certification.

You should not construe this notice of approval to be a building permit or a waiver of any other applicable provisions of local zoning ordinances, utility regulations or building codes. In addition, the issuance of this notice of approval does not relieve the property owner of the responsibility to obtain all other applicable permits, easements, or approvals that may be required for this project.

As a requirement of the State's regulation governing storm water runoff and construction site erosion and sediment control (327 IAC 15-5) you are required to submit an erosion and sediment control plan to the Marion County SWCD, and a Notice of Intent (and any required fees and application) to the Indiana Department of Environmental Management (IDEM) prior to the initiation of land disturbing activities. Land disturbing activities under state law mean any manmade change of the land surface, including the removal of vegetative cover, excavating, filling, transporting and grading. Submittal of your DCE-approved erosion and sediment control plan, SWPPP and a copy of this APPROVAL LETTER to the Marion County SWCD prior to engaging in any land disturbing activity will fulfill the State's requirement to submit a soil erosion and sediment control plan (though you are still required to submit the Notice of Intent to IDEM pursuant to 327 IAC 15-5-5).

I. DESIGN APPROVAL AND PERMIT ISSUANCE

The City of Indianapolis hereby notifies the Owner that the plans are in general conformity to applicable design criteria established by City Ordinance, Standards and Specifications and are hereby approved. All detail dimensions and quantities have not been completely checked. The full responsibility of the Owner and their Agent(s) is not relieved by this approval.

Department of Code Enforcement

1200 Madison Ave., Ste. 100 | Indianapolis, IN 46225 | Phone: (317) 327-8700 | www.indy.gov/dce
Fax Numbers: Building - 327-8475 | Business Licensing - 327-0817 | Contractor Licensing - 327-8401
Crafts - 327-5397 | Infrastructure/Right of Way - 327-3125 | Permits - 327-5174 | Zoning - 327-8696

If modification or addendum to the proposed construction project is required by the Owner(s), a revised set of construction plans that accurately delineate all changes and/or amendments must be submitted and approved by this Department before the commencement of construction activity.

Owner is provided notice and direction to the following:

1. Submit four (4) sets of Final Construction Plans to the Project Compliance Analyst (PCA) at the address listed below. Please be sure these plans note the latest revision date and are titled "**Final Construction Plans.**"
2. Please pay the Final Plan Review fee of **\$726.00**. This fee represents the total review fee less the fees paid to date (\$1,245.00- \$519.00). Checks should be made payable to the **City of Indianapolis**. Payment is due immediately. Please be advised that the Department has no knowledge regarding contractual obligations for payment of fees amongst various parties of a project, and therefore holds the signed Applicant responsible for payment of review fees.
3. Please pay the initial stormwater quality inspection three (3) year fee of **\$2,115.00** which is \$705.00 per BMP utilized in this project.
4. Please submit an executed original **Grant of Perpetual Drainage Easement and Right of Way**. This document will then be executed by the City and returned to the applicant for recording. A copy of the recorded document must then be returned to this office.
5. Please submit two (2) signed and notarized paper and one (1) digital copy of the BMP O&M Manual.
6. Please submit a fully executed **AGREEMENT FOR CONSTRUCTION OF STORMWATER DRAINAGE SYSTEM UNDER PRIVATE CONTRACT** (With the System to Remain Private) with notarized signatures of legal Owner and Contractor.
7. Obtain the **Drainage and/or Flood Permit** from the Department of Code Enforcement. If the Permit is not obtained within one (1) year from the date of this Notice this approval shall be void.

II. CONSTRUCTION ACTIVITIES

Construction activities may not begin before completion of the following:

1. Owner or Contractor will schedule and attend a **pre-construction conference**. Contact myself to schedule a meeting time and place. The Inspecting Engineer will be assigned at this meeting. Contractor attendance is mandatory. The **inspection fee** for this project is based upon an inspection-billing rate of \$65.00 per hour with average inspection time between twenty (20) and thirty (30) hours per week of construction. The actual inspection cost is dependent on site conditions. Inspection costs will be invoiced directly by the Inspecting Engineer on a monthly basis.
2. An Improvement Location Permit(s) (ILP) may be required by the Department of Code Enforcement for this project. The items to be submitted should include (but are not limited to):
 - A completed ILP Application
 - 2 copies of the legal description for the site
 - 2 copies of the site plan drawn to scale, showing all information necessary for ILP review
 - 2 copies of the landscape plan
 - Any approved Letters of Petition which include rezoning, variance and or approval case.

For Additional information regarding the above, please call 327-8700 and request a detailed checklist.

III. PROJECT ACCEPTANCE:

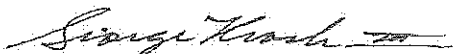
The following must be completed during/after project construction/completion:

1. A final inspection must be satisfactorily completed. Contact the Inspecting Engineer to schedule this final inspection. The balance of inspection costs must be paid to the Inspecting Engineer prior to project acceptance or release of connection permits.
2. A Completed Improvement Stormwater Drainage Project Contractor Affidavit must be processed with this office. Contact myself to obtain a copy of this form for processing.
3. Submit one (1) set of "As-Built" mylars (i.e. title page, site/development plan(s), specification(s), and detail(s)). All numbers and letters must be a minimum 1/4" in height (deliver originals to myself). Also submit a copy of the "As-Built" in digital form. The file format will be AutoCAD Drawing Interchange File (DXF) format.

To expedite the permitting process, please bring this letter with you when obtaining your permit.

If you have any question regarding this approval, please call me at 327-8461.

Sincerely,



George Krack III
Project Compliance Analyst
Department of Code Enforcement
City of Indianapolis

cc: File
Owner

Refined Metals Corporation

December 9, 2015

Ms. Tamara Ohl
United States Environmental
Protection Agency – Region V
77 W. Jackson Street, LU-9J
Chicago, IL 60604-3590

Re: Progress Report No. 208 (November 2015)
Refined Metals Corporation (RMC)
3700 South Arlington Avenue; Beech Grove, Indiana

Dear Ms. Ohl,

Pursuant to paragraph 64 of the consent decree entered August 31, 1998 and the Final Decision and Response to Comments Document issued by the United States Environmental Protection Agency (EPA) on September 15, 2009, this progress report for activities completed at the subject Site during the month of November 2015 is submitted to the EPA.

1. Actions Taken During November 2015 to Comply with the Consent Decree

- On November 10, 2015, RMC submitted to EPA the progress report for October 2015.
- Other actions taken during November 2015 included the following:
 - Efforts continued to secure the final stormwater drainage permit from the City of Indianapolis Department of Code Enforcement (DCE).
 - Placement of impacted soil and debris in the containment cell was completed, the surface of the placed material was prepared for capping, and the geosynthetic cover was installed. Placement of cover soil was initiated.
 - Backfilling was performed in areas GCE1 – CGE4, MSB1A, MSB1AX, and the railroad spur.
 - The former lagoon area and CCB, FL and AMT areas were hydroseeded. Restoration work was performed on the CSX property.

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3700 S. Arlington Avenue • Beech Grove, Indiana 46203
Mailing Address: 3000 Montrose Avenue • Reading, PA 19605

- Concrete was removed as necessary to facilitate final basin grade elevations.
- The remnants of the truck scale at the site entrance were demolished.
- Sod was installed in certain backfilled areas on the Citizens Gas property.
- Grading of planned wetland areas was performed.
- Two replacement groundwater monitoring wells (MW-2A and CC-6A) were installed and other monitoring wells were repaired as necessary.
- Erosion control devices were inspected and were repaired and/or installed as necessary.
- Perimeter air monitoring continued. During November, air monitoring for lead ceased when the geosynthetics were installed on the containment cell. Dust monitoring continued after air monitoring for lead ceased.
- Management, collection and treatment of stormwater from active work areas continued. Once generation of contact stormwater ceased, the system for treatment of stormwater was decontaminated and demobilized.
- Impacted sediments were removed from the stormwater manhole and inlets to the manhole were sealed with concrete. The balance of the manhole was filled with clean soil fill so it can be put back into service if needed for future development.
- Weekly conference calls to review project progress continued.

2. Results of Sampling and Tests and Other Data Received During November 2015

- Results of sampling, tests and other data received in November 2015 included the following:
 - Fill soil contaminant analysis.
 - Air monitoring results and particulate readings.
 - Analysis of concrete for use as fill.
 - Geomembrane seam test results.
 - Compaction test results.
 - Analysis of sediment in the stormwater manhole.

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Mailing Address: 3000 Montrose Avenue • Reading, PA 19605

3. Project Schedule & Percentage of Closure Completed as of November 30, 2015

- Due primarily to volumes of contaminated debris and soil encountered beyond that contemplated in the Final Corrective Measure Design, remediation extended into winter of 2014 – 2015. Rather than work through the winter, work was suspended when the onsite containment cell reached capacity. Geomembrane and 18 inches of cover soil were then placed on the containment cell. Work at the site was suspended on December 19, 2014. The original intent was to complete the balance of the remediation in the spring of 2015 by treating remaining soil and debris onsite and disposing of it offsite; however, evaluations performed over the winter indicated this approach would have been cost prohibitive. RMC requested authorization to expand the onsite containment cell so it could accommodate all remaining soil and debris to be excavated. On July 20, 2015, the EPA issued an ESD authorizing expansion of the onsite containment cell. Remediation work resumed on August 17, 2015. As of November 30, 2015, approximately 95% of Corrective Measures Implementation had been completed.

4. Problems or Potential Problems Encountered and Actions Taken to Rectify Problems

- During excavation in the AMT areas, debris and impacted media which appears unrelated to former operations at Refined Metals was observed in some sidewalls. Debris appears to be railroad related (e.g., rails, railroad wheels, railroad ties, cinders, etc.). XRF readings of this material indicate some of it has elevated metals concentrations. A review of aerial photographs indicates the rail line beneath which much of this material is located pre-dates the construction of the Refined Metals facility. Aerial photographs showing this was provided to the EPA. Remediation of this debris and impacted media is not contemplated in the Corrective Measures Design.

5. Modifications to Work Plans Proposed to or Approved by EPA during November 2015

- No modifications to work plans were proposed to or approved by EPA during November 2015.

6. Changes in Personnel

- To date, there has been no change in personnel

7. Tasks and Actions Scheduled for December 2015

- Tasks and actions anticipated for December 2015 include the following:
 - AGC will continue pursuit of the final stormwater drainage permit from the DCE.
 - Weather permitting, installation of the final cap will be completed.
 - Restoration work will continue.
 - Erosion control devices will be inspected and maintained.
 - Dust monitoring will continue.

8. Unresolved Delays Encountered

- No unresolved delays were encountered in November 2015.

9. Community Relations

- No community relations activities were performed during the reporting period.

I certify under penalty of perjury that the information contained in or accompanying this progress report is, to the best of my knowledge after thorough investigation, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sincerely,

REFINED METALS CORPORATION



Matthew A. Love

cc: Thomas Linson - IDEM (via Email)
Paul Stratman – AGC (via U.S. Mail)

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3700 S. Arlington Avenue • Beech Grove, Indiana 46203
Mailing Address: 3000 Montrose Avenue • Reading, PA 19605

17D 000 718 130

Refined Metals Corporation
3700 South Arlington Avenue
Beech Grove, Indiana
IND 000 718 130

Photo Log: November 16, 2015
Final Remedy Construction



Photo 1: Looking northwest. Foreground is southwest corner of RMC. Background is Citizens Gas facility.



Photo 2: Showing northwest edge Confinement Cell (B) with white geomembrane.



Photo 3: Containment Cell (B) showing geotextile installation.



Photo 4: Northeast edge of Containment Cell (B) and background wetland area.



Photo 5: Eastern view of RMC.



Photo 7: Showing geotextile install, looking north-northeast.



Photo 8: Showing geotextile install, looking north-northeast.



Photo 9: Showing geotextile install, looking north-northeast.



Photo 10: Showing transition from Containment Cell (background), to Containment Cell B (foreground)



Photo 11: Looking east. Showing CGE-1, CGE-2, and AMT-2 and AMT-3 Areas. Citizens Gas in background.



Photo 12: Looking east. Showing Amtrak RR and temporary fence.



Photo 13: Looking west toward Amtrak railyard.



Photo 14: Looking east. Blue line will be location of permanent fence.

Refined Metals Corporation

November 10, 2015

Ms. Tamara Ohl
United States Environmental
Protection Agency – Region V
77 W. Jackson Street, LU-9J
Chicago, IL 60604-3590

Re: Progress Report No. 207 (October 2015)
Refined Metals Corporation (RMC)
3700 South Arlington Avenue; Beech Grove, Indiana

Dear Ms. Jean,

Pursuant to paragraph 64 of the consent decree entered August 31, 1998 and the Final Decision and Response to Comments Document issued by the United States Environmental Protection Agency (EPA) on September 15, 2009, this progress report for activities completed at the subject Site during the month of October 2015 is submitted to the EPA.

1. Actions Taken During October 2015 to Comply with the Consent Decree

- On October 19, 2015, RMC submitted to the EPA the progress report for September 2015.
- Other actions taken during October 2015 included the following:
 - Efforts continued to secure the final stormwater drainage permit from the City of Indianapolis Department of Code Enforcement (DCE).
 - Clearing was completed on the CSX property.
 - Soil excavation was completed in areas AMT1, AMT2, AMT3, CG1, CG2, CSX, FL3, FL4, FL5, MSB1A, MSB1AX, ND1, and ND2.
 - Backfilling was performed in the Arlington Avenue, driveway and former lagoon excavations as well as in areas AMT1, AMT2, CG1, CG2, FL5 MSB1A, and MSB1AX.

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- The Arlington Avenue, driveway and former lagoon excavations as well as areas AMT1, AMT2, CG1, CG2, and FL5 were restored.
- Grading of planned stormwater control features and wetland areas was performed.
- Advanced GeoServices Corporation (AGC) and OP-TECH Environmental Services, Inc. (OP-TECH) completed reconciliation of excavation surveys for various areas excavated in 2014.
- Erosion control devices were inspected and were repaired and/or installed as necessary.
- Perimeter air monitoring continued.
- Management, collection and treatment of stormwater from active work areas continued.
- Weekly conference calls to review project progress continued.

2. Results of Sampling and Tests and Other Data Received During October 2015

- Results of sampling, tests and other data received in October 2015 included the following:
 - Post excavation soil samples.
 - XRF readings of excavation areas.
 - Fill soil contaminant analysis.
 - Air monitoring results and particulate readings.
 - Analysis of concrete for use as fill.
 - Compaction test results.

3. Project Schedule & Percentage of Closure Completed as of October 31, 2015

- Due primarily to volumes of contaminated debris and soil encountered beyond that contemplated in the Final Corrective Measure Design, remediation extended into winter of 2014 – 2015. Rather than work through the winter, work was suspended when the onsite containment cell reached capacity. Geomembrane and 18 inches of cover soil were then placed on the containment cell. Work at the site

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3700 S. Arlington Avenue • Beech Grove, Indiana 46203
Mailing Address: 3000 Montrose Avenue • Reading, PA 19605

was suspended on December 19, 2014. The original intent was to complete the balance of the remediation in the spring of 2015 by treating remaining soil and debris onsite and disposing of it offsite; however, evaluations performed over the winter indicated this approach would have been cost prohibitive. RMC requested authorization to expand the onsite containment cell so it could accommodate all remaining soil and debris to be excavated. On July 20, 2015, the EPA issued an ESD authorizing expansion of the onsite containment cell. Remediation work resumed on August 17, 2015. As of October 31, 2015, approximately 90% of Corrective Measures Implementation had been completed.

4. Problems or Potential Problems Encountered and Actions Taken to Rectify Problems

- A pipe of unknown former use was discovered at the bottom of the lagoon. Sediments in the pipe contain high concentrations of lead. The section of the pipe within the lagoon footprint was removed (including an apparent termination point); however the pipe exited the lagoon footprint on the west side. Through various methods, it was determined that the pipe runs to one of the former stormwater pump houses. The remaining section of this pipe was excavated in October 2015.
- During excavation in the AMT areas, debris and impacted media which appears unrelated to former operations at Refined Metals was observed in some sidewalls. Debris appears to be railroad related (e.g., rails, railroad wheels, railroad ties, cinders, etc.). XRF readings of this material indicate some of it has elevated metals concentrations. A review of aerial photographs indicates the rail line beneath which much of this material is located pre-dates the construction of the Refined Metals facility. Aerial photographs showing this was provided to the EPA. Remediation of this debris and impacted media is not contemplated in the Corrective Measures Design.
- South and west of areas MSB1A and MSB1AX, impacted soil and debris extended to large concrete foundations. Based on soil sampling in the excavations immediately adjacent to these concrete structures, it is not believed that soil beneath them is substantially impacted if at all. Rather than removing the concrete for little benefit, it was decided to collect soil samples on the other side of the concrete structures to determine if impacted soil and debris extends that far.

5. Modifications to Work Plans Proposed to or Approved by EPA during October 2015

- As indicated above, the approach to soil excavation of soil south and west of areas MSB1A and MSB1AX was modified due to large concrete foundations uncovered in this area.

6. Changes in Personnel

- To date, there has been no change in personnel

7. Tasks and Actions Scheduled for November 2015

- Tasks and actions anticipated for November 2015 include the following:
 - AGC will continue pursuit of the final stormwater drainage permit from the DCE.
 - All soil excavation will be concluded.
 - Installation of the final cap will be completed.
 - Restoration work will continue.
 - New monitoring wells will be installed and developed.
 - Erosion control devices will be inspected and maintained.
 - Perimeter air monitoring will continue; however, the scope of air monitoring will be scaled back once excavation of impacted soil and debris is completed.
 - Management, collection and treatment of stormwater from active work areas will continue.

8. Unresolved Delays Encountered

- No unresolved delays were encountered in October 2015.

9. Community Relations

- No community relations activities were performed during the reporting period.

I certify under penalty of perjury that the information contained in or accompanying this progress report is, to the best of my knowledge after thorough investigation, true,

Ms. Tamara Ohl
November 10, 2015

Page 5 of 5

accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sincerely,

REFINED METALS CORPORATION



Matthew A. Love

cc: Thomas Linson - IDEM (via Email)
Paul Stratman - AGC (via U.S. Mail)

257 West Mallory Avenue • Memphis, Tennessee 38109
3700 S. Arlington Avenue • Beech Grove, Indiana 46203
Mailing Address: 3000 Montrose Avenue • Reading, PA 19605



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Michael R. Pence
Governor

Thomas W. Easterly
Commissioner

October 4, 2013

Mr. Matthew A. Love
Refined Metals Corporation
c/o Exide Technologies
P.O. Box 14294
Reading, PA 19612-4294

Dear Mr. Love:

Re: Bond Rider to Add EPA
Refined Metals Corporation
Beech Grove, Indiana
IND000718130

IDEM has received your September 30, 2013 letter providing the rider to surety bond number SUR0014548 for Refined Metals Corporation, Beech Grove, Indiana. The rider adds EPA as an Obligee on the surety bond. As discussed via e-mail, the third paragraph of the enclosed bond rider is unacceptable to IDEM. IDEM is amenable to a bond rider to add EPA if the surety company removes the third paragraph of the bond rider.

If you have any questions, please contact me at (317) 232-3398 or e-mail at rjean@idem.IN.gov.

Sincerely,

Ruth A. Jean
Senior Environmental Manager
Hazardous Waste Permit Section
Permits Branch
Office of Land Quality

Enclosure

cc: Jonathan Adenuga, U.S. EPA, Region 5 (w/out enclosure) ✓



A State that Works

Refined Metals Corporation

VIA FEDERAL EXPRESS

September 30, 2013

Ms. Ruth Jean
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Re: Rider to Add EPA as Obligee on Surety Bond
Refined Metals Corporation (RMC)
Beech Grove, Indiana

Dear Ms. Jean:

Per our recent conversations, the EPA has requested to be added as an obligee on the surety bond submitted to IDEM to cover financial assurance obligations for the subject facility. IDEM is agreeable to this. Attached is the original Dual Obligee Rider that adds EPA as an obligee. After IDEM approves and signs the attached rider, our surety company indicates that EPA only needs copy of the surety bond and rider to draw on the bond. I can provide EPA both; however, I'll need a copy of the rider which has been signed by IDEM. If the rider is acceptable to IDEM, please have it signed and email me a copy so I can forward a complete copy to EPA. Feel free to contact me should you have any questions.

Sincerely,

REFINED METALS CORPORATION



Matthew A. Love

Enclosure

cc: Jonathan Adenuga – EPA (w. encl.)

257 West Mallory Avenue • Memphis, Tennessee 38109
3700 S. Arlington Avenue • Beech Grove, Indiana 46203
Mailing Address: c/o Exide Technologies, P.O. Box 14294, Reading, PA 19612-4294

DUAL OBLIGEE RIDER

To be attached to and to form a part of Financial Guarantee Bond No. SUR0014548, dated 8/10/2011, issued by Argonaut Insurance Company as Surety, on behalf of Exide Technologies as Principal and in favor of Indiana Department of Environmental Management as Obligee.

The Financial Guarantee Bond aforesaid shall be amended to add as additional Obligee, the name of United States Environmental Protection Agency.

PROVIDED, HOWEVER, there shall be no liability under this bond to the Obligees, or either of them, unless the said Obligees or either of them, shall make payments to the Principal strictly in accordance with the terms of said contract as to payments, and shall perform all of the other obligations to be performed under said contract at the time and in the manner therein set forth; all of acts of one Obligee being binding on the other.

PROVIDED FURTHER, that this rider shall not become effective until accepted by Indiana Department of Environmental Management.

The attached bond shall be subject to all of its terms, conditions and limitations except as herein modified. Provided, further that the Principal and Surety shall not be liable to all Obligees in the aggregate in excess of the penal sum of the bond.

Signed, sealed and dated this 25th day of September, 2013.

Exide Technologies

Principal

By: _____

NICHOLAS J. IVANOW

Argonaut Insurance Company

Surety

By: _____

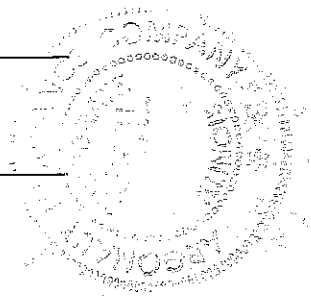
Frank Kinnett

Frank Kinnett, Attorney-in-Fact

ACCEPTED:

Indiana Department of Environmental Management

By: _____



AS-0050384

Argonaut Insurance Company
Deliveries Only: 225 W. Washington, 6th Floor
Chicago, IL 60606

United States Postal Service: P.O. Box 469011, San Antonio, TX 78246

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the Argonaut Insurance Company, a Corporation duly organized and existing under the laws of the State of Illinois and having its principal office in the County of Cook, Illinois does hereby nominate, constitute and appoint:

Frank Kinnett and John E. Genet

Their true and lawful agent(s) and attorney(s)-in-fact, each in their separate capacity if more than one is named above, to make, execute, seal and deliver for and on its behalf as surety, and as its act and deed any and all bonds, contracts, agreements of indemnity and other undertakings in suretyship provided, however, that the penal sum of any one such instrument executed hereunder shall not exceed the sum of:

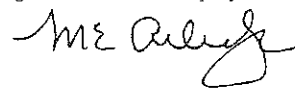
\$25,000,000.00

This Power of Attorney is granted and is signed and sealed under and by the authority of the following Resolution adopted by the Board of Directors of Argonaut Insurance Company:

"RESOLVED, That the President, Senior Vice President, Vice President, Assistant Vice President, Secretary, Treasurer and each of them hereby is authorized to execute powers of attorney, and such authority can be executed by use of facsimile signature, which may be attested or acknowledged by any officer or attorney, of the Company, qualifying the attorney or attorneys named in the given power of attorney, to execute in behalf of, and acknowledge as the act and deed of the Argonaut Insurance Company, all bond undertakings and contracts of suretyship, and to affix the corporate seal thereto."

IN WITNESS WHEREOF, Argonaut Insurance Company has caused its official seal to be hereunto affixed and these presents to be signed by its duly authorized officer on the 15th day of June, 2012.

Argonaut Insurance Company



by: _____
Michael E. Arledge, President

STATE OF TEXAS
COUNTY OF HARRIS SS:

On this 15th day of June, 2012 A.D., before me, a Notary Public of the State of Texas, in and for the County of Harris, duly commissioned and qualified, came THE ABOVE OFFICER OF THE COMPANY, to me personally known to be the individual and officer described in, and who executed the preceding instrument, and he acknowledged the execution of same, and being by me duly sworn, deposed and said that he is the officer of the said Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and the said Corporate Seal and his signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said corporation, and that Resolution adopted by the Board of Directors of said Company, referred to in the preceding instrument is now in force.

IN TESTIMONY WHEREOF, I have hereunto set my hand, and affixed my Official Seal at the County of Harris, the day and year first above written.





(Notary Public)

I, the undersigned Officer of the Argonaut Insurance Company, Illinois Corporation, do hereby certify that the original POWER OF ATTORNEY of which the foregoing is a full, true and correct copy is still in full force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of said Company, on the 25th day of September, 2013.



Joshua C. Betz, Vice President

Documentation of Environmental Indicator Determination

Interim Final 2/5/99

RCRA Corrective Action Environmental Indicator (EI) RCRIS code (CA750)

Migration of Contaminated Groundwater Under Control

Facility Name: Refined Metals Corporation
Facility Address: 3700 Arlington Avenue, Beech Grove, IN 46203
Facility EPA ID #: IND 000 718 130

1. Has all available relevant/significant information on known and reasonably suspected releases to the groundwater media, subject to RCRA Corrective Action (e.g., from Solid Waste Management Units (SWMU), Regulated Units (RU), and Areas of Concern (AOC)), been **considered** in this EI determination?

- ☒ If yes - check here and continue with #2 below.
☐ If no - re-evaluate existing data, or
☐ If data are not available skip to #6 and enter "IN" (more information needed) status code.

BACKGROUND

Definition of Environmental Indicators (for the RCRA Corrective Action)

Environmental Indicators (EI) are measures being used by the RCRA Corrective Action program to go beyond programmatic activity measures (e.g., reports received and approved, etc.) to track changes in the quality of the environment. The two EI developed to-date indicate the quality of the environment in relation to current human exposures to contamination and the migration of contaminated groundwater. An EI for non-human (ecological) receptors is intended to be developed in the future.

Definition of Migration of Contaminated Groundwater Under Control EI

A positive "Migration of Contaminated Groundwater Under Control" EI determination ("YE" status code) indicates that the migration of "contaminated" groundwater has stabilized, and that monitoring will be conducted to confirm that contaminated groundwater remains within the original "area of contaminated groundwater" (for all groundwater "contamination" subject to RCRA corrective action at or from the identified facility (i.e., site-wide)).

Relationship of EI to Final Remedies

While Final remedies remain the long-term objective of the RCRA Corrective Action program the EI are near-term objectives which are currently being used as Program measures for the Government Performance and Results Act of 1993, GPRA). The "Migration of Contaminated Groundwater Under Control" EI pertains ONLY to the physical migration (i.e., further spread) of contaminated ground water and contaminants within groundwater (e.g., non-aqueous phase liquids or NAPLs). Achieving this EI does not substitute for achieving other stabilization or final remedy requirements and expectations associated with sources of contamination and the need to restore, wherever practicable, contaminated groundwater to be suitable for its designated current and future uses.

Duration / Applicability of EI Determinations

EI Determinations status codes should remain in RCRIS national database ONLY as long as they remain true (i.e., RCRIS status codes must be changed when the regulatory authorities become aware of contrary information).

Current Human Exposures Under Control
Environmental Indicator (EI) RCRIS code (CA750)

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2. Is **groundwater** known or reasonably suspected to be **contaminated**¹ above appropriately protective levels (i.e., applicable promulgated standards, as well as other appropriate standards, guidelines, guidance, or criteria) from releases subject to RCRA Corrective Action, anywhere at, or from, the facility?

- ☒ If yes - continue after identifying key contaminants, citing appropriate levels, and referencing supporting documentation.
- ☐ If no - skip to #8 and enter AYE status code, after citing appropriate levels, and referencing supporting documentation to demonstrate that groundwater is not contaminated.
- ☐ If unknown - skip to #8 and enter IN status code.

Rationale and Reference(s):

Table 1 provides a list of exceedances based on Tables 1A-1L from *Final Corrective Measures Design (CMD), for Refined Metals Corporation, Beech Grove, Indiana*, prepared by Advanced Geoservices, revision dated September 6, 2013 and Tables 3a-3e; 4a-4b; and 6a-6e from *Annual Report of Groundwater Sampling Data for Refined Metals Facility*, prepared by Advanced Geoservices, dated March 31, 2014.

¹ Contamination and contaminated describes media containing contaminants (in any form, NAPL and/or dissolved, vapors, or solids, that are subject to RCRA) in concentrations in excess of appropriate levels (appropriate for the protection of the groundwater resource and its beneficial uses).

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3. Has the **migration** of contaminated groundwater **stabilized** (such that contaminated groundwater is expected to remain within existing area of contaminated groundwater² as defined by the monitoring locations designated at the time of this determination)?

- ☒ If yes - continue, after presenting or referencing the physical evidence (e.g., groundwater sampling/measurement/migration barrier data) and rationale why contaminated groundwater is expected to remain within the (horizontal or vertical) dimensions of the existing area of groundwater contamination².
- ☐ If no (contaminated groundwater is observed or expected to migrate beyond the designated locations defining the existing area of groundwater contamination²) - skip to #8 and enter NO status code, after providing an explanation.
- ☐ If unknown - skip to #8 and enter IN status code.

Rationale and Reference(s):

Based on available data, the general extent of contamination has not changed significantly over the last several years, with data available for some wells for a 14-year period. For example, the groundwater flow is predominantly to the south/southeast, which places monitoring wells MW-5 and MW-6S in the downgradient direction. Total arsenic and lead (MCL criteria are 10 µg/L and 15 µg/L, respectively) concentrations in MW-5 in September 1999 were 8.4 µg/L and non-detect, respectively, while in November 2013 the concentrations were 4.0 and 0.72 µg/L, respectively. For well MW-06S, total arsenic and lead concentrations in September 1999 were 8.8 µg/L and 21.0 µg/L, respectively, while in November 2013 their concentrations were 1.7 µg/L and 0.3 µg/L, respectively. Note, historically the MCL criteria are exceeded at other monitoring wells that are in upgradient locations. This is further presented in various data tables (i.e., Tables 1A through 1L) provided in Reference 3. Analytical data and trends will be further evaluated as additional data become available.

Reference 3, Section 4.1.1 indicates that the results of the Phase I RFI sampling detected the presence of antimony, barium, cadmium, chromium, mercury, selenium and silver. With only some exceptions; concentrations of these parameters were consistently below the Region 9 Preliminary Remediation Goals (PRGs) used for screening results of the Phase I RFI sampling in the corrective action areas (i.e., areas outside the boundaries of the HWMUs). Therefore, only lead and arsenic were retained as constituents of concern

² “existing area of contaminated groundwater” is an area (with horizontal and vertical dimensions) that has been verifiably demonstrated to contain all relevant groundwater contamination for this determination, and is defined by designated (monitoring) locations proximate to the outer perimeter of contamination that can and will be sampled/tested in the future to physically verify that all contaminated groundwater remains within this area, and that the further migration of contaminated groundwater is not occurring. Reasonable allowances in the proximity of the monitoring locations are permissible to incorporate formal remedy decisions (i.e., including public participation) allowing a limited area for natural attenuation.

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in soil and sediment during corrective action measures. According to Table 1A from Reference 3, the MCL for selenium was exceeded one time at MW-1 in December 1999. The MCL for selenium is 50 µg/L and the level detected at MW-1 was 73 µg/L. Reference 3 (Tables 1A-L) indicate that no other selenium exceedances were detected in any onsite wells during sampling events between 1999 and 2007. Historic sampling detected antimony at a maximum concentration of 14 ug/l, exceeding the MCL of 6. Antimony has not been detected in recent sampling.

The assessment of concentration trends for iron and manganese is based on data from analysis conducted from 2007 to 2013 (2014 data not yet available). Data consists of semi-annual groundwater sampling (2007 to 2013) at monitoring wells MW-05, MW6SR, MW-9, MW-11 and MW-12. EPA's Regional Screening Level for iron is 14,000 micrograms per liter (ug/l) and 430 ug/l for manganese. Based on the data for the period 2007 to 2013, there does not appear to be a consistent trend for the iron and/or manganese data in these monitoring wells. For many of the monitoring wells, concentrations of both iron and manganese are actually higher during the middle or later portion of the time period. For MW-5, iron and manganese concentrations in January 2007 were 1,000 ug/l and 230 ug/l respectively, and were 1,400 ug/l and 260 ug/l respectively in April 2013. The lowest concentration in MW-5 for both constituents occurred in August 2007 (830 ug/l for iron and 170 ug/l for manganese) and the highest concentration for iron occurred in May 2011 at 2,700 ug/l for iron and in May 2012 at 280 ug/l for manganese. Similar concentrations and variability was noted in monitoring wells MW-9 and MW-12, while concentrations were slightly higher overall in MW-11. For MW-6SR, concentrations were an order of magnitude higher in general and an increasing trend noted. The iron and manganese concentrations in January 2007 were 2,600 ug/l and 99 ug/l respectively and were 15,000 ug/l for iron and 2,300 ug/l for manganese in April 2013. These concentrations also represent the lowest and highest concentrations for both constituents respectively. A high of 14,000 ug/l for iron was observed in May 2008, but concentrations decreased somewhat from 2008 until rebounding to the high in April 2013. Manganese concentrations rose from 2007s' low to the high in April 2013. Maximum concentrations of iron and manganese are greater than the RSL and additional monitoring will be conducted to further assess any trends and verify contamination remains within the existing area.

Based on the requirement for this component, it appears that the "migration" of contaminated groundwater is under control with regard to impacts remaining within the (historical) "existing area of contaminated groundwater" at/on the facility.

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4. Does contaminated groundwater discharge into surface water bodies?

- X If yes - continue after identifying potentially affected surface water bodies.
- If no - skip to #7 (and enter a YE status code in #8, if #7 = yes) after providing an explanation and/or referencing documentation supporting that groundwater contamination does not enter surface water bodies.
- If unknown - skip to #8 and enter IN status code.

Rationale and Reference(s):

Based on the presence of multiple drainage canals, impoundment/lagoon and related surface water features at the site, the answer to this component is "yes." The Corrective Measures Design (Reference 3) discusses the planned remedial actions for drainage ditches (see Sections 4.4 and 6.4 of Reference 3) that have been impacted by run-off and erosion.

Off-site surface water bodies in the vicinity of the site are identified in Reference 1, Section 3.1, p. 16. There is an intermittent stream that flows from the northern portion of site to the northwest to the headwaters of **Beech Creek** (distance not provided). Historically, surface water from other areas of the site and the impoundment potentially flowed to a drainage ditch that flowed off-site to the east, and then to the south eventually discharging to **Sloan Ditch**. Sloan Ditch flows 0.6 mile west-southwest to **Churchman Creek**, which flows to the west 0.9 mile and discharges to Beech Creek. Beech Creek flows 1.2 miles to the southwest to **Lick Creek**, which then flows 7 miles to the **White River**.

Section 3.3., p. 17 states the sand and gravel glacial outwash that coincides with the courses of the White River and **Fall Creek** is the aquifer of greatest economic importance. The location of this aquifer generally coincides with the glacial melt water and outwash deposits along the major streams. Fall Creek enters White River upstream of the site. The White River sand and gravel aquifer is located approximately 5.3 miles west of the site. The sand and gravel aquifer is unconfined and flows toward and discharges to the surface water bodies.

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5. Is the **discharge** of contaminated groundwater into surface water likely to be **insignificant** (i.e., the maximum concentration³ of each contaminant discharging into surface water is less than 10 times their appropriate groundwater level, and there are no other conditions (e.g., the nature, and number, of discharging contaminants, or environmental setting), which significantly increase the potential for unacceptable impacts to surface water, sediments, or eco-systems at these concentrations)?

 x If yes - skip to #7 (and enter YE status code in #8 if #7 = yes), after documenting: 1) the maximum known or reasonably suspected concentration³ of key contaminants discharged above their groundwater level, the value of the appropriate level(s), and if there is evidence that the concentrations are increasing; and 2) provide a statement of professional judgement/explanation (or reference documentation) supporting that the discharge of groundwater contaminants into the surface water is not anticipated to have unacceptable impacts to the receiving surface water, sediments, or eco-system.

 If no - (the discharge of contaminated groundwater into surface water is potentially significant) - continue after documenting: 1) the maximum known or reasonably suspected concentration³ of each contaminant discharged above its groundwater level, the value of the appropriate level(s), and if there is evidence that the concentrations are increasing; and 2) for any contaminants discharging into surface water in concentrations³ greater than 100 times their appropriate groundwater levels, the estimated total amount (mass in kg/yr) of each of these contaminants that are being discharged (loaded) into the surface water body (at the time of the determination), and identify if there is evidence that the amount of discharging contaminants is increasing.

 If unknown - enter IN status code in #8.

Rationale and Reference(s):

Based on information provided in historic RCRA Facility Investigations (References 1 and 2), and the CMD, it appears that documented impacts to surface water/sediment are limited. Section 4.4.4 of the CMD (Reference 3) states that only one sediment sample within the storm water lagoon exceeded the cleanup criterion for arsenic. As well, Section 4.4.4 of the CMD also states that respective discharge limits (for surface waters) developed for the temporary discharge permit have not been exceeded at the unit discharge point. As implementation of the CMD occurs, additional assessment will be conducted to further verify that the answer continues to be "yes."

It should be noted that iron and manganese have been detected in MW-3 and MW-6-6SR, although at concentrations less than ten times the RSL. Based on the levels detected, iron and manganese will be further evaluated for potential impacts to surface water. According to Section 5.5.2 of Reference 3, during the first two quarterly groundwater sampling events for MNA monitoring, samples will be analyzed for total and dissolved arsenic and lead, sulfide, sulfate, nitrate, arsenic speciation (arsenite/arsenate), iron speciation (ferric/ferrous), and manganese speciation (MnII/MnVII) for use in geochemical

³ As measured in groundwater prior to entry to the groundwater-surface water/sediment interaction (e.g., hyporheic) zone.

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modeling. Potential impacts to surface water will be reassessed after data from the second quarterly groundwater sampling event are available.

Reference 5 (Cover letter page 2 of 3) reports that 2013 sample results for total arsenic or lead find that for a "well by well comparison, none of the constituents analyzed exceeded the USEPA MCLs where such a value exists." With regard to trend analysis, Reference 5 also includes a summary of statistical analyses performed on data collected beginning in November 2007, as indicated below:

- Based on the statistical analysis for Site Specific Parameters relative to MW-9 presented in Appendix A, total and dissolved arsenic in MW-5 and total arsenic in MW-6SR indicated a statistically significant increase. The calculated t-value for total and filtered arsenic (i.e., dissolved) in MW-5 and total arsenic in MW-6SR shows "significant difference." The highest observed total result in MW-5 during 2013 was 4.8 µg/L and the highest filtered result in MW-5 during 2013 was 2 µg/L; while the highest observed result for the total arsenic in MW-6SR during 2013 was 7.7 µg/L, all of which are less than the MCL of 10 µg/L.
- Based on the statistical analysis for Site Specific Parameters relative to MW-11, a significant decrease exists for total arsenic in MW-12, with neither monitoring well being above the MCL of 10 µg/L. RMC began sampling MW-11 as an alternate background well after the November 2007 sampling event when results suggested that during low groundwater periods MW-9 may potentially be downgradient of a portion of the former facility operations.

Historically, according to Tables 1A-1L in Reference 3, two monitoring wells indicated the highest concentrations relative to respective screening values:

- During a January 24, 2007 sampling event, MW-3 indicated total arsenic at 170 µg/L (greater than 10 times the MCL of 10 µg/L). This result was considerably higher than the next highest reading at MW-3 (28 µg/L) and was attributed to high well turbidity during that sample event (Reference 3, Section 4.5, p. 4-7.)
- During the October 27, 2003 and January 25, 2007 sampling events total arsenic was reported at 290 µg/L and 190 µg/L respectively, and total lead was reported at 217 µg/L in MW-7/7S. At downgradient monitoring well MW-8:
 - Total arsenic was reported above the MCL at 13 ug/l and 19 ug/l during the December 11, 2011, and October 28, 2003 sampling events, respectively. Both of these sampling results are less than 10 times the MCL.
 - Total lead was reported above the MCL for all sampling events in 2001, 2003 and 2007 with the highest level of 55 ug/l reported during the October 28, 2003 sampling event. These concentration are less than 10 times the MCL.

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Based on the above information for the recently monitored wells, groundwater discharge into surface water bodies is likely to be insignificant.

6. Can the **discharge** of contaminated groundwater into surface water be shown to be **currently acceptable** (i.e., not cause impacts to surface water, sediments or eco-systems that should not be allowed to continue until a final remedy decision can be made and implemented⁴)?

—— If yes - continue after either: 1) identifying the Final Remedy decision incorporating these conditions, or other site-specific criteria (developed for the protection of the sites surface water, sediments, and eco-systems), and referencing supporting documentation demonstrating that these criteria are not exceeded by the discharging groundwater; OR 2) providing or referencing an interim-assessment,⁵ appropriate to the potential for impact, that shows the discharge of groundwater contaminants into the surface water is (in the opinion of a trained specialists, including ecologist) adequately protective of receiving surface water, sediments, and eco-systems, until such time when a full assessment and final remedy decision can be made. Factors which should be considered in the interim-assessment (where appropriate to help identify the impact associated with discharging groundwater) include: surface water body size, flow, use/classification/habitats and contaminant loading limits, other sources of surface water/sediment contamination, surface water and sediment sample results and comparisons to available and appropriate surface water and sediment levels, as well as any other factors, such as effects on ecological receptors (e.g., via bio-assays/benthic surveys or site-specific ecological Risk Assessments), that the overseeing regulatory agency would deem appropriate for making the EI determination.

—— If no - (the discharge of contaminated groundwater can not be shown to be **currently acceptable**) - skip to #8 and enter NO status code, after documenting the currently unacceptable impacts to the surface water body, sediments, and/or eco-systems.

—— If unknown - skip to 8 and enter IN status code.

Rationale and Reference(s):

⁴ Note, because areas of inflowing groundwater can be critical habitats (e.g., nurseries or thermal refuge) for many species, appropriate specialist (e.g., ecologist) should be included in management decisions that could eliminate these areas by significantly altering or reversing groundwater flow pathways near surface water bodies.

⁵ The understanding of the impacts of contaminated groundwater discharges into surface water bodies is a rapidly developing field and reviewers are encouraged to look to the latest guidance for the appropriate methods and scale of demonstration to be reasonably certain that discharges are not causing currently unacceptable impacts to the surface waters, sediments or eco-systems.

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7. Will groundwater **monitoring** / measurement data (and surface water/sediment/ecological data, as necessary) be collected in the future to verify that contaminated groundwater has remained within the horizontal (or vertical, as necessary) dimensions of the existing area of contaminated groundwater?
- ☒ X If yes - continue after providing or citing documentation for planned activities or future sampling/measurement events. Specifically identify the well/measurement locations which will be tested in the future to verify the expectation (identified in #3) that groundwater contamination will not be migrating horizontally (or vertically, as necessary) beyond the existing area of groundwater contamination.
- ☐ If no - enter NO status code in #8.
- ☐ If unknown - enter IN status code in #8.

Rationale and Reference(s):

The CMD plans for soil, sediment and groundwater sampling concurrently with and following implementation of the Corrective Measures. In addition, multiple rounds of groundwater monitoring will occur in conformance with a MNA plan included as Attachment H to the CMD.

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8. Check the appropriate RCRIS status codes for the Migration of Contaminated Groundwater Under Control EI (event code CA750), and obtain Supervisor (or appropriate Manager) signature and date on the EI determination below (attach appropriate supporting documentation as well as a map of the facility).

☒ **YE** - Yes, "Migration of Contaminated Groundwater Under Control" has been verified. Based on a review of the information contained in this EI determination, it has been determined that the "Migration of Contaminated Groundwater" is "Under Control" at the Refined Metals facility, EPA ID #IND 000 718 130, located in Beech Grove, Indiana. Specifically, this determination indicates that the migration of "contaminated" groundwater is under control, and that monitoring will be conducted to confirm that contaminated groundwater remains within the "existing area of contaminated groundwater" This determination will be re-evaluated when the Agency becomes aware of significant changes at the facility.

☐ **NO** - Unacceptable migration of contaminated groundwater is observed or expected.

☐ **IN** - More information is needed to make a determination.

Completed by

(signature)



Date

9-23-14

(print)

Tamara Ohl

(title)

Corrective Action Project Manager

Supervisor

(signature)



Date

9/23/14

(print)

Tammy Moore

(title)

Section Chief, LCD, RRB, CAS2

(EPA Region or State)

Region 5

Locations where References may be found:

EPA Region 5 Records Room, 7th Floor
77 West Jackson Boulevard
Chicago, IL 60604

Contact telephone and e-mail numbers

(name)

Tamara Ohl

(phone #)

312-886-0991

(e-mail)

ohl.tamara@epa.gov

Table 1
Summary of Inorganic Compounds Detected in Groundwater Beneath the Refined Metals Site
September 1999 - November 2013

Constituent	Historical Maximum On-Site Concentration (µg/L)	Monitoring Well Location	2013 Maximum On-Site Concentrations	Monitoring Well Location (Date)	US EPA MCL (µg/L)	Regional Screening Level for Tapwater (µg/L) ¹	Exceeds One or Both EPA Limits?
Total Metals							
Antimony	14	MW-8/8S	2.3 U	MW-12 (4/30/2013)	6	7.8	Yes
Arsenic	290	MW-7/7S	8.3	MW-11 (4/30/2013)	10	6	Yes
Barium	276	MW-4	-	-	2,000	3,800	No
Cadmium	0.8	MW-8/8S	-	-	5	9.2	No
Calcium	470,000	MW-7/7S	-	-	NA	NA	No
Chromium	26	MW-6S/6SR ²	-	-	100	NA	No
Iron	30,000	MW-3	15,000 -	MW-6SR (4/30/2013)	NA	14,000	Yes
Lead	217	MW-7/7S	13	MW-12 (4/30/2013)	15	NA	Yes
Magnesium	610,000	MW-10	-	-	NA	NA	No
Manganese	2,300 J	MW-6S/6SR ²	2300 J	MW-6SR (4/30/2013)	NA	430	Yes
Mercury	U	-	-	-	2	0.63	No
Selenium	73	MW-1	-	-	50	100	Yes
Silver	U	-	-	-	NA	94	No
Sodium	1,000,000	MW-10	-	-	NA	NA	No
Conventionals							
Chloride	450	MW-11	450	MW-11 (4/30/2013)	NA	NA	No
Sulfate	330	MW-9	290	MW-9 (4/30/2013)	NA	NA	No

Sources: 2013 Annual Report of Groundwater Sampling Data; Data Validation Report of Groundwater Samples Collected on April 30, 2013 for Inorganic and Conventional Analyses; Data Validation Report of Groundwater Samples Collected on November 12, 2013 for Inorganic and Conventional Analyses; Final Corrective Measure Design for Refined Metals Corporation, Beech Grove, Indiana.

Notes:

J - The analyte was positively detected; however the concentration was estimated as the result was less than the quantitation limit.

MCL - maximum contaminant levels

U - The analyte was not detected at the quantitation limit.

µg/L - micrograms per liter

¹ EPA Regional Screening Level for Tapwater TR = 1E-06 and THQ=1.0

² MW-6S reconstructed as MW-6SR between 12/15/1999 and 9/24/2001 sampling events

Yellow highlights indicate an exceedance of a screening value.

Refined Metals Corporation

October 6, 2014

Ms. Tamara Ohl
United States Environmental
Protection Agency - Region V
77 W. Jackson Street, LU-9J
Chicago, IL 60604-3590

Re: Progress Report No. 194 (September 2014)
Refined Metals Corporation (RMC)
Beech Grove, Indiana

Dear Ms. Ohl:

Pursuant to paragraph 64 of the consent decree entered August 31, 1998 and the Final Decision and Response to Comments Document issued by the United States Environmental Protection Agency (EPA) on September 15, 2009, this progress report for activities completed during the month of September 2014 is submitted to the EPA.

1. Actions Taken During September 2014 to Comply with the Consent Decree

- On September 9, 2014, RMC submitted to EPA the progress report for August 2014.
- Other actions taken during September 2014 included the following:
 - OP-TECH Environmental Services, Inc. (OP-TECH) continued demolition of concrete and asphalt paved surfaces specified for removal.
 - OP-TECH shipped rebar from concrete demolition activities offsite for recycling.
 - OP-TECH completed preparation of the containment cell base and continued preparation of the berms.
 - OP-TECH excavated contaminated soil and debris from grid locations FL4B, MSB1B, MSB2B, WP3A, WP3B, WP6A, and WP6B. Excavated material was placed in the onsite containment cell.
 - OP-TECH backfilled the NW excavation area.

257 West Mallory Avenue • Memphis, Tennessee 38109
3700 S. Arlington Avenue • Beech Grove, Indiana 46203
Mailing Address: c/o Exide Technologies, P.O. Box 14294, Reading, PA 19612-4294

- OP-TECH removed material from the pits in the pump houses, cleaned the pits, and cleaned the piping associated with the pits.
- OP-TECH demolished pump houses 1 and 2.
- AGC continued coordinating proper disposal of incidental wastes formerly located in the pump houses.
- OP-TECH removed water from the former refining kettle pit, demolished the bottom of the pit, and backfilled the pit.
- OP-TECH continued dewatering the lagoon.
- OP-TECH began demolition of the lagoon.
- OP-TECH shipped railroad ties removed from the onsite railroad spur offsite for disposal.
- OP-TECH continued daily air monitoring.
- OP-TECH staked out work specified on the adjacent Citizens Gas property and this work was reviewed with representatives of Citizens Gas.
- OP-TECH explored options for disposal of treated stormwater. It was concluded the most viable option was to discharge it to the POTW. Authorization was obtained from the POTW to discharge treated stormwater.
- OP-TECH confirmed the location of a sewer pipe connected to the POTW.
- OP-TECH continued management of stormwater that contacted work areas. OP-TECH completed treatment of all stormwater collected in the onsite frac tanks and discharged the treated stormwater to the POTW.
- AGC performed regular inspection of erosion and sedimentation control devices.
- RMC completed the Agreement for Construction of Stormwater Drainage System Under Private Contract, and the Indemnification Agreement (Drainage) with the City of Indianapolis. The completed agreement was sent to the City for signature.
- OP-TECH obtained a permit to perform the excavation along the right-of-way of South Arlington Avenue.

- OP-TECH made contact with the appropriate CSX Transportation (CSX) representative to schedule a site meeting to discuss the timing of remediation work on the CSX property.
- Ownership and the scope of work for the western end of the AMT excavation area was discussed. It was determined that CSX owns this area. RMC sent CSX a request to amend the existing access agreement to allow RMC to remediate this area.
- AGC hosted weekly progress calls attended by representatives of RMC, OP-TECH, IDEM and EPA.

2. Results of Sampling and Tests and Other Data Received During September 2014

- Analytical results received in September 2014 included the following:
 - Post-excavation soil sampling (tested of some of these samples was performed onsite with the XRF and a subset of these samples was sent offsite for laboratory analysis).
 - Soil samples collected from the grids where OP-TECH observed acidic/sulphur odors.
 - Air samples collected from the vicinity of the grids where OP-TECH observed acidic/sulphur odors.
 - Compaction test results for the containment cell base, surrounding berms, and waste material placed in the containment cell.
 - Daily air monitoring samples.
 - Samples collected of broken concrete for possible use of the concrete as fill material.
 - Treated stormwater prior to discharge to the POTW.

3. Project Schedule & Percentage of Closure Completed as of September 30, 2014

- On September 15, 2014, OP-TECH provided an updated schedule for remediation. In general, the schedule contemplates commencement of remediation activities at the beginning of August and completing them in the second week of November. As of September 30, 2014, approximately 35% of Corrective Measures Implementation had been completed.

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4. Problems or Potential Problems Encountered and Actions Taken to Rectify Problems

- Acidic/sulphur odors were observed during excavation in grids MSB1B, MSB2B, and WP6A. Following this observation, OP-TECH temporarily suspended work in this area and collected samples of both the soil for pH analysis and air samples. Upon receiving these results, OP-TECH consulted with their industrial hygienist. By the end of September, OP-TECH indicated it was nearing a conclusion that it was safe to resume work in this area.

5. Modifications to Work Plans Proposed to or Approved by EPA during September 2014

- No modifications to work plans were proposed to or approved by EPA during September 2014.

6. Changes in Personnel

- To date, there has been no change in personnel.

7. Tasks and Actions Scheduled for October 2014

- Tasks and actions anticipated for October 2014 include the following:
 - Complete construction of the containment cell.
 - Continue removal of concrete and asphalt paving in specified areas.
 - Continue excavation of contaminated soil and debris from specified areas and placement in the containment cell.
 - Complete dewatering and demolition of the lagoon.
 - Meet with CSX at the site to review and schedule remediation work to be performed on CSX property and obtain access to a second CSX property located along Big Four Road.
 - Acquire all remaining permits.
 - Continue collection of stormwater in work areas, treatment of collected stormwater, and discharge of treated stormwater to the POTW.

- Dispose of incidental wastes formerly located in the pump houses.
- Continue daily air monitoring.
- Resolve the scope and timing of remediation work on the Citizens Gas property.
- Develop methods to address voids discovered beneath concrete paving (i.e., suspected pipe chases).
- Continue weekly progress calls.

8. Unresolved Delays Encountered

- No unresolved delays were encountered during the reporting period.

9. Community Relations Activities

- No community relations activities were performed during the reporting period.

I certify under penalty of perjury that the information contained in or accompanying this progress report is, to the best of my knowledge after thorough investigation, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Sincerely,

REFINED METALS CORPORATION



Matthew A. Love

cc: Thomas Linson – IDEM (via email)
Paul Stratman (via U.S. Mail)

Refined Metals Corporation

VIA EMAIL

October 7, 2014

Ms. Ruth Jean
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Re: Progress Report No. 191 (September 2014)
HWMU Closure
Refined Metals Corporation (RMC)
Beech Grove, Indiana

Dear Ms. Jean:

Pursuant to paragraph 64 of the consent decree entered August 31, 1998 and the Final Decision this progress report for activities completed during the month of September 2014 is submitted to the Indiana Department of Environmental Management (IDEM).

1. Actions Taken During September 2014 to Comply with the Consent Decree

- On September 9, 2014, RMC submitted to IDEM the progress report for August 2014.
- Other actions taken during September 2014 included the following:
 - OP-TECH Environmental Services, Inc. (OP-TECH) continued demolition of concrete and asphalt paved surfaces specified for removal.
 - OP-TECH shipped rebar from concrete demolition activities offsite for recycling.
 - OP-TECH completed preparation of the containment cell base and continued preparation of the berms.
 - OP-TECH excavated contaminated soil and debris from grid locations FL4B, MSB1B, MSB2B, WP3A, WP3B, WP6A, and WP6B. Excavated material was placed in the onsite containment cell.

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- OP-TECH backfilled the NW excavation area.
- OP-TECH removed material from the pits in the pump houses, cleaned the pits, and cleaned the piping associated with the pits.
- OP-TECH demolished pump houses 1 and 2.
- AGC continued coordinating proper disposal of incidental wastes formerly located in the pump houses.
- OP-TECH removed water from the former refining kettle pit, demolished the bottom of the pit, and backfilled the pit.
- OP-TECH continued dewatering the lagoon.
- OP-TECH began demolition of the lagoon.
- OP-TECH shipped railroad ties removed from the onsite railroad spur offsite for disposal.
- OP-TECH continued daily air monitoring.
- OP-TECH staked out work specified on the adjacent Citizens Gas property and this work was reviewed with representatives of Citizens Gas.
- OP-TECH explored options for disposal of treated stormwater. It was concluded the most viable option was to discharge it to the POTW. Authorization was obtained from the POTW to discharge treated stormwater.
- OP-TECH confirmed the location of a sewer pipe connected to the POTW.
- OP-TECH continued management of stormwater that contacted work areas. OP-TECH completed treatment of all stormwater collected in the onsite frac tanks and discharged the treated stormwater to the POTW.
- AGC performed regular inspection of erosion and sedimentation control devices.
- RMC completed the Agreement for Construction of Stormwater Drainage System Under Private Contract, and the Indemnification Agreement (Drainage) with the City of Indianapolis. The completed agreement was sent to the City for signature.

- OP-TECH obtained a permit to perform the excavation along the right-of-way of South Arlington Avenue.
- OP-TECH made contact with the appropriate CSX Transportation (CSX) representative to schedule a site meeting to discuss the timing of remediation work on the CSX property.
- Ownership and the scope of work for the western end of the AMT excavation area was discussed. It was determined that CSX owns this area. RMC sent CSX a request to amend the existing access agreement to allow RMC to remediate this area.
- AGC hosted weekly progress calls attended by representatives of RMC, OP-TECH, IDEM and EPA.

2. Results of Sampling and Tests and Other Data Received During September 2014

- Analytical results received in September 2014 included the following:
 - Post-excavation soil sampling (tested of some of these samples was performed onsite with the XRF and a subset of these samples was sent offsite for laboratory analysis).
 - Soil samples collected from the grids where OP-TECH observed acidic/sulphur odors.
 - Air samples collected from the vicinity of the grids where OP-TECH observed acidic/sulphur odors.
 - Compaction test results for the containment cell base, surrounding berms, and waste material placed in the containment cell.
 - Daily air monitoring samples.
 - Samples collected of broken concrete for possible use of the concrete as fill material.
 - Treated stormwater prior to discharge to the POTW.

3. Project Schedule & Percentage of Closure Completed as of September 30, 2014

- On September 15, 2014, OP-TECH provided an updated schedule for remediation. In general, the schedule contemplates commencement of remediation activities at the beginning of August and completing them in the second week of November. As of September 30, 2014, approximately 35% of Corrective Measures Implementation had been completed.

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Sincerely,

REFINED METALS CORPORATION



Matthew A. Love

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